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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

96-262

In the Matter of	)	
	)	
Questions Related to	)	CCB/CPD No. 98-34
Assessment of Presubscribed	)	
Interexchange Carrier Charges	)	
on Public Payphone Lines	)	

MOTION TO ACCEPT LATE-FILED COMMENTS
OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST"), pursuant to 47 C.F.R. Section 1.41, respectfully requests that the Federal Communications Commission ("Commission") accept its late-filed Comments in the above-captioned proceeding. Due to a last-minute communications failure, U S WEST was unable to file its Comments in a timely manner. As indicated in the associated Certificate of Service, all recipients (with a non-Post Office Box address) of U S WEST's Comments are being served today via either hand delivery or overnight courier. As such U S WEST believes that no party to the proceeding will be prejudiced by the Commission's acceptance of these Comments. Therefore, U S WEST requests that its attached Comments be made a part of the record. U S WEST regrets any inconvenience to the Commission caused by its late-filed comments.

Respectfully,

U S WEST COMMUNICATIONS, INC.

By: James T. Hannon

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May 27, 1998

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COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST") hereby submits its comments in response to specific questions which the Federal Communications Commission ("Commission") raised with respect to the application of Presubscribed Interexchange Carrier Charges ("PICC") on public payphone lines.[1]

U S WEST acknowledges that there are certain complexities associated with the application of access charges to public payphone lines, particularly those serving payphones owned by local exchange companies ("LEC"), that do not exist with respect to other business lines. Some of these issues arise because until recently only one interexchange company ("IXC"), AT&T Corp. ("AT&T"), had the capability to handle 1+ coin sent-paid traffic. The situation is further complicated by the fact that LEC payphone owners were prohibited by the Modification of Final Judgment ("MFJ") from selecting the Presubscribed IXC serving LEC payphones. In the absence of this regulatory constraint, it is unlikely that Operator Service

[1] See Public Notice, Commission Seeks Comment on Specific Questions Related to Assessment of Presubscribed Interexchange Carrier Charges on Public Payphone Lines, CCB/CPD No. 98-34, DA 98-845, rel. May 4, 1998.

Providers ("OSP") would play the role that they do in the current payphone market.

The current inquiry is basically the result of OSPs requesting special treatment in order to avoid some portion of LEC access charges that they must bear under the Commission's Access Reform Order.[2] In that Order the Commission restructured interstate access charges -- replacing the usage sensitive carrier common line ("CCL") charge with the new flat-rated PICC assessed on presubscribed lines. No new access revenues flow to LECs as a result of this revenue neutral access restructure and the creation of the PICC. Therefore, any financial relief, well-intended or not, that the Commission may provide to OSPs or IXCs serving payphones will be recovered from other interstate access customers. Under price cap regulation, this is a "zero sum" game unless LECs voluntarily choose to forego recovery of some portion of their lawful access revenues. As the Commission moves forward in this proceeding, it cannot lose sight of the fact that PICCs were created as part of a revenue neutral access charge restructure.

Having said the above, it is U S WEST's position that the Commission was correct in finding that access charges should be assessed on payphone lines in the same manner as these charges are applied to business lines.[3] This means that, for

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[2] In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, First Report and Order, 12 FCC Rcd. 15982 (1997) ("Access Reform Order" or "Order"); pets. for recon. pending, appeals pending sub nom. Southwestern Bell Telephone Company v. FCC, Nos. 97-2618, et al. (8th Cir.) on recon., 12 FCC Rcd. 10119, Second Order on recon., 12 FCC Rcd. 16606 (1997), pet. for recon. pending, appeals pending sub nom. AT&T v. FCC, Nos. 97-1678, et al. (D.C. Cir.), Third Report and Order, 12 FCC Rcd. 22430 (1997), pet. for recon. pending.

[3] Access Reform Order, 12 FCC Rcd. at 16004 ¶ 55.

all lines within a state that are billed to the same account, payphone owners should be subject to end-user charges at the multiline business rate and that IXCs serving payphone lines should be assessed the multiline business PICC rate. There is no justification for any other rate. IXCs serving payphone lines have received the benefit of the elimination of the CCL charge and should be assessed multiline business PICCs. The fact that some IXCs have chosen to pass the PICC through to OSPs and payphone owners is a business decision and in no way implies that LECs have done anything improper in assessing PICCs on payphone lines.[4]

Specific Questions

Question 2

Does the Commission's existing rule governing collection of the PICC, 47 C.F.R. § 69.153, permit price cap LECs to impose PICC charges for LEC public payphone lines and, if not, whether the rule should be amended to provide explicitly for assessment of PICCs on public payphone lines?

Response

Section 69.153 of the Commission's rules applies to all subscriber lines and allows LECs to assess PICCs on IXCs serving these lines. While Section 69.153 does not specifically include payphone lines, neither does it exclude them. The only reasonable construction of the language in Section 69.153 is that it applies to all subscriber lines, including payphone lines. If the Commission had intended to exclude payphone lines from the universe of local exchange lines, it could easily have identified them separately. The fact that the Commission chose not to do so is consistent with the Commission's previous decision in which it found that the multiline business Subscriber Line Charge ("SLC") should apply to subscriber lines which terminate at both LEC and competitive payphones.[5] As such, it is

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[4] The decision on the part of IXCs to pass the PICC through to their customers is for all intents and purposes a rate increase.

[5] In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, 11 FCC Rcd. 20541, 20634 ¶ 187 (1996); on recon., 11 FCC Rcd. 21233 (1996); pets

appropriate to assess the multiline business PICC rate on payphone lines.

Question 3

Assuming that price cap LECs are permitted to assess PICC charges on public payphone lines, should the PICC be: (a) charged to the presubscribed 1+ carrier; (b) charged to the presubscribed 0+ carrier; (c) imputed to the LEC's payphone unit as an end user; (d) split evenly between the 1+ and 0+ PIC; or (e) prorated among all IXCs that carry calls originating from a particular payphone each month? Commenters may also propose other alternatives methods for allocating the public payphone PICC.

Response

For business and residence lines, there is only one presubscribed carrier—not a presubscribed 1+ carrier and a presubscribed 0+ carrier as is usually the case with "dumb" payphones. Thus, the same IXC which is assessed the PICC for business and residence lines is also the IXC which has benefited from the elimination of CCL charges on interstate toll calls made over these lines. This is not the case for "dumb" payphones where the default 1+ carrier normally carries only coin sent-paid traffic while the 0+ presubscribed carrier handles all credit card and other 0+ traffic.[6] Approximately 70 percent of the direct-dialed toll calls made from U S WEST payphones are placed on an 0+ basis. Thus, as the predominant carrier of payphone traffic, the 0+ carrier is also the party which has benefited the most from the elimination of CCL charges on calls made from payphones. As such, U S WEST believes that the PICC for payphone lines should be imposed on the presubscribed 0+ carrier rather than the 1+ carrier.

Question 4

Should all public payphones be charged the multiline business PICC, or should some public payphones, such as those that constitute the only telephone at a given location, be charged the single-line business PICC?

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for review, granted in part and denied in part, 117 F.3d 555, (D.C. Cir.), clarified, 123 F.3d 693 (D.C. Cir. 1997).

[6] Since 1+ equal access was ordered for payphones in 1990, U S WEST has not converted a single payphone from the default 1+ carrier to a new presubscribed 1+ carrier for its more than eighty thousand "dumb" payphones which use central office collect and return functionality.

Response

As discussed in response to Question 2, including payphone lines in the universe of local exchange lines subject to the multiline business PICC is consistent with the Commission's previous decision applying the multiline business SLC to subscriber lines which terminate at both LEC and competitive payphones.

Question 5

Do policy reasons, practical considerations, or other factors suggest that price cap LECs should be permitted to assess PICCs on the LEC's public payphone lines that are different in amount, or collected from a different party, from those assessed on privately-owned payphones?

Response

There are no policy reasons or practical considerations which justify disparate treatment of LEC-owned payphones as compared to other privately-owned payphones. In fact, the nondiscrimination requirement of Section 276 of the Telecommunications Act of 1996 ("1996 Act") does not appear to allow the Commission or LECs to discriminate between LEC-owned and privately-owned payphones in the application of the PICC to IXCs serving payphone lines. In accordance with the nondiscrimination requirement, U S WEST does not treat its own payphones any differently from other privately-owned payphones.

Question 6

To what degree could imposition of PICC charges on any of the parties listed in Question (3), above, cause reductions in the availability of public payphone services, increases in rates, or reduction in competition for interstate, interLATA traffic originating from public payphones?

Response

The imposition of PICC charges on OSPs, IXCs, or ultimately payphone owners is unlikely, in and of itself, to have a material impact on the availability of public payphones. Furthermore, both the 1996 Act and the Commission's rules have provisions addressing "public interest" payphones in those marginal cases where imposition of the PICC may make payphone service in a given location uneconomical.[7]

Respectfully submitted,

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Dan L. Poole

May 27, 1998

[7] 47 U.S.C. § 276(b)(2); 47 C.F.R. § 64.1330(c).

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 27th day of May, 1998, I have caused a copy of the foregoing **MOTION TO ACCEPT LATE-FILED COMMENTS OF U S WEST COMMUNICATIONS, INC. and COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served, via either hand delivery or overnight courier,* upon the persons listed on the attached service list.

Rebecca Ward

Rebecca Ward

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*One party, with a Post Office Box address, served via first-class U.S. mail
+Served via hand delivery
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